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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**

8 UNITED STATES OF AMERICA,

9 Plaintiff,

10 vs.

11 JAMES KINNEY,

12 Defendant.

Case No. 2:09-cr-00132-JAD-GWF-10

STIPULATION TO CONTINUE
SENTENCING DATE

13 It is hereby stipulated and agreed, by and between Dayle Elieson, United
14 States Attorney, through Richard Anthony Lopez, Assistant United States Attorney,
15 and Todd M. Leventhal, Esq., counsel for defendant James Kinney, that the
16 sentencing scheduled for October 23, 2018, at 10:00 a.m. be vacated and reset for a
17 date and time convenient for the Court, but no earlier than November 12, 2018.

18 This stipulation is entered into for the following reasons:

19 1. Counsel for the Government likely has a conflict with the current date
20 and time for sentencing because calendar call in *United States v. Fujinaga*, No. 2:15-
21 cr-00198-GMN-NJK is scheduled for 9:00 a.m. on October 23, 2018. The *Fujinaga*
22 case is expected to go forward to trial starting October 29, 2018, and is expected to
23 last at least two weeks.

2. Defense counsel is not available on November 9, 16, 23, or 30.

3. In addition, the parties could use additional time to prepare for sentencing.

4. Defendant James Kinney is not in custody and does not object to the continuance.

DATED this 16th day of October, 2018.

Respectfully submitted,

DAYLE ELIESON
United States Attorney

/s/ Todd M. Leventhal
TODD M. LEVENTHAL, ESQ.
Counsel for Defendant
James Kinney

/s/ Richard Anthony Lopez
 RICHARD ANTHONY LOPEZ
 Assistant United States Attorney

1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**

3 UNITED STATES OF AMERICA,

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7 Defendant.

Case No. 2:09-cr-00132-JAD-GWF-10

8 **FINDINGS OF FACT**

9 Based on the parties' stipulation to continue the sentencing date, and good
10 cause appearing therefore, the Court finds that:

11 1. Counsel for the Government likely has a conflict with the current date
12 and time for sentencing because calendar call in *United States v. Fujinaga*, No. 2:15-
13 cr-00198-GMN-NJK is scheduled for 9:00 a.m. on October 23, 2018. The *Fujinaga*
14 case is expected to go forward to trial starting October 29, 2018, and is expected to
15 last at least two weeks.

16 2. Defense counsel is not available on November 9, 16, 23, or 30.

17 3. In addition, the parties could use additional time to prepare for
18 sentencing.

19 4. Defendant James Kinney is not in custody and does not object to the
20 continuance.

21 **CONCLUSIONS OF LAW**

22 5. For all of the above-stated reasons, the ends of justice would best be
23 served by a continuance of the sentencing date.

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DATED: 10/17/2018

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